

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

STEPHEN SELL,)
)
Petitioner,)
)
v.) No. 4:11CV168 HEA
) (TIA)
TROY STEELE,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court on the Motion for Appointment of Counsel filed by Petitioner Stephen Sell. The case was referred to the undersigned pursuant to 28 U.S.C. § 636(b).

On January 21, 2011, Petitioner filed a Petition under 28 U.S.C. § 2254 for a Writ of Habeas Corpus. He filed a Motion for Appointment of Counsel on February 3, 2011, alleging that, because of his incarceration, he is unemployed and indigent; he has no knowledge of the law pertaining to his complex case and habeas corpus proceedings in general; and he has limited access to the law library and law clerk assistance. Thus, he requests that the court appoint him an attorney or qualified law student to represent him in these proceedings.

“[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings . . .” McCall v. Benson, 114 F.3d 754, 756 (8th Cir. 1997). In order to determine whether appointment of counsel is appropriate, the court must consider “the factual and legal complexity of the case, and the petitioner’s ability both to investigate and to articulate his claims without court appointed counsel.” Id. (citations omitted). In the instant case, Petitioner raises only three grounds for habeas relief, and they do not appear to be factually or legally complex. Indeed, two of the grounds pertain to whether counsel was ineffective with regard to the plea agreement and guilty plea. The other claim

concerns Petitioner's claim that he is actually innocent. Petitioner has thus far been able to articulate his claims in a clear, concise manner, despite his allegations of an inability to adequately represent himself. Because petitioner has demonstrated an ability to present his claims without an attorney, his motion for appointment of counsel will be denied at this time.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion for Appointment of Counsel [Doc. #4] is **DENIED**. If the Court later determines that counsel is necessary, the appropriate order will be issued.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 2nd day of May, 2011.